

1 BRAD D. BRIAN (CA Bar No. 079001, *pro hac vice*)
Brad.Brian@mto.com
2 LUIS LI (CA Bar No. 156081, *pro hac vice*)
Luis.Li@mto.com
3 TRUC T. DO (CA Bar No. 191845, *pro hac vice*)
Truc.Do@mto.com
4 MIRIAM L. SEIFTER (CA Bar No. 269589, *pro hac vice*)
Miriam.Seifter@mto.com
5 MUNGER, TOLLES & OLSON LLP
355 South Grand Avenue, Thirty-Fifth Floor
6 Los Angeles, CA 90071-1560
Telephone: (213) 683-9100
7

8 THOMAS K. KELLY (AZ Bar No. 012025)
tskelly@kellydefense.com
425 E. Gurley
9 Prescott, Arizona 86301
Telephone: (928) 445-5484
10

11 Attorneys for Defendant JAMES ARTHUR RAY

12 SUPERIOR COURT OF STATE OF ARIZONA
13 COUNTY OF YAVAPAI

14 STATE OF ARIZONA,
15 Plaintiff,
16 vs.
17 JAMES ARTHUR RAY,
18 Defendant.
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CASE NO. V1300CR201080049


Hon. Warren Darrow

DIVISION PTB

**DEFENDANT JAMES ARTHUR RAY'S
NOTICE OF OBJECTIONS TO
YAVAPAI COUNTY ADULT
PROBATION DEPARTMENT'S
PRESENTENCE REPORT (ARIZ.
CRIM. R. 26.8(a))**

SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

2011 NOV -7 PM 2:06

SANDRA K. HARKHAM, CLERK
BY: 

1 Defendant James Arthur Ray, by and through undersigned counsel, hereby objects to the
2 following language and/or sections of the Yavapai County Adult Probation Department's
3 Presentence Report, pursuant to Ariz. Crim. R. 26.8(a), and requests that the Court take such
4 action it deems necessary, including but not limited to (1) excision of objectionable language or
5 sections of the report, (2) ordering a new presentence report with specific instructions and
6 directions, (3) directing a new presentence report to be prepared by a different deputy probation
7 officer, or (4) ordering the original (objectionable) presentence report sealed. Ariz. Crim. R.
8 26.8(c).

9
10 **Objection to Page 11**, re Criminal Behavior: "Does not appear to have any prior criminal history.
11 First offense came at the age of 51."

12 It is undisputed that Mr. Ray has no prior criminal history, including arrests or
13 convictions, prior to October 9, 2009. His first arrest at age 51 was for the charges in the
14 instant case.

15
16 **Objection to Page 12**, re Impressions: "Mr. Ray does not appear to have any prior criminal
17 history."

18 It is undisputed that Mr. Ray has no prior criminal history, including arrests or
19 convictions, prior to October 9, 2009. His first arrest at age 51 was for the charges in the
20 instant case.

21
22 **Objection to Page 12**, re Impressions: "This officer has spoken to the defendant James Arthur
23 Ray and has gone over the police reports in this case numerous times, as well as a great quantity
24 of court documents and witness statements. What this officer was able to determine was that Mr.
25 Ray held a five-day seminar titled 'Spiritual Warrior,' which included fasting, and 'Vision Quest'
26 for some, and concluded with participants taking part in a sweat lodge ceremony. Pursuant to the
27 reports, over 50 people participated in the sweat lodge ceremony, which apparently lasted over
28 two hours in intense heat. When Mr. Ray was advised by some of the participants that there might

1 have been some problems with some of the people inside the lodge and that some of them had
2 passed out, he advised that they would be fine. It was mentioned several times that Mr. Ray told
3 participants that although they might feel like they were going to die inside the sweat lodge, they
4 would not. When reading over the investigative reports, this officer noted there was no mention of
5 any emergency precautions in place, in case something went awry. There was no ambulance,
6 doctor or appropriate medical personnel on hand to treat any medical problems or emergencies.
7 No specific medical warnings were given nor was medical information asked of the victims, to
8 determine if they were healthy enough to participate in the event. When the sweat lodge
9 ceremony was completed, several people were ill, and two people, Kirby Brown and James
10 Shore, had passed away and a third, Lizabeth Neuman, died several days later in a Flagstaff
11 hospital.”

12 This Court presided over the trial and is familiar with the testimony and evidence in this
13 case. The Probation Officer’s speculative opinions and conclusions are unreliable and
14 based only on inadmissible and unadmitted police reports, and, are in many instances,
15 refuted by the evidence adduced at trial. Mr. Ray request that this entire paragraph be
16 excised from the Presentence Report and not be considered.

17
18 ***Objection to Page 13:*** “This case is tragic. Three people have died and numerous people have
19 been affected by the loss. While it does not appear that Mr. Ray’s actions were intentional, this
20 officer would suggest that he does need to be held responsible for the deaths of three individuals.
21 His actions appear to this officer to be reckless, dangerous, and negligent, and he should be held
22 accountable.”

23 As a matter of law, Mr. Ray’s actions were neither “intentional” nor “reckless.” The jury
24 acquitted Mr. Ray of the charged crime of reckless manslaughter and convicted him of the
25 lesser offense of negligent homicide, an unintentional Class 4 felony. Moreover, this
26 Court presided over the trial and is familiar with the testimony and evidence in this case.
27 The Probation Officer’s speculative opinions and conclusions are unreliable and based
28 only on inadmissible and unadmitted police reports, and, are in many instances, refuted by

1 the evidence adduced at trial. Mr. Ray requests that this entire paragraph be excised from
2 the Presentence Report and not be considered.
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6 DATED: November 7, 2011

MUNGER, TOLLES & OLSON LLP

BRAD D. BRIAN

LUIS LI

TRUC T. DO

MIRIAM L. SEIFTER

9 THOMAS K. KELLY

10
11 By 

Attorneys for Defendant James Arthur Ray

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13 Copy of the foregoing delivered this 7th day
14 of November, 2011, to:

15 Sheila Polk

Yavapai County Attorney

16 Prescott, Arizona 86301

17 by 